

REMARKS

Claims 1-34 are pending in the present application.

[I] Restriction Requirement

The Examiner has required election in the present application between:

Group I, claims 1-15, drawn to a first alkaline battery/method of making an alkaline battery; and

Group II, claims 16-34, drawn to a second alkaline battery/second method of making an alkaline battery.

For the purpose of examination of the present application, Applicants elect, with traverse, Group II, Claims 16-34.

According to MPEP §803, if the search and examination of an entire application can be made without a serious burden, the Examiner *must* examine it on the merits, even though it includes claims to independent or distinct inventions. Applicants note that the Examiner has classified Group I (claims 1-15) in Class 429, Subclass 206 and has classified Group II (claims 16-34) in Class 29, Subclass 623.5. The PTO Manual of Classification describes these classes as follows:

Class 429, Subclass 206

* Include electrolyte chemically specified and method

** Alkaline

Class 29, Subclass 623.5

* Electrical device making

** Electric battery cell making

***Including coating or impregnating

It appears to Applicants that the subject matter of each of Group I and Group II should be included in both Class 429, Subclass 206 and Class 29, Subclass 623.5. Accordingly, the search of Group I necessarily overlaps with the search of Group II. As such, there would be no undue burden to search for all of claims 1-34 and rejoinder of Group II with Group I is respectfully requested.

[III] Election of Species

The Examiner has also imposed an Election of Species Requirement. In response, Applicants elect with traverse:

Embodiment 2-4 (beginning on line 31 on page 23 of the specification).

Applicants respectfully remind the Examiner that should the Examiner not find prior art, which renders the elected species unpatentable, the Examiner is required to expand the search to include a reasonable number of additional species. (See MPEP 809.02). Applicants respectfully submit that the scope of claim 16, includes a reasonable number of additional species for searching/examination purposes.


Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Garth M. Dahlen, Ph.D., Registration No 43,575 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

- ☐ Attached is a Petition for Extension of Time.
- ☐ Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: June 26, 2006

Respectfully submitted,

By  #43578
John W. Bailey for
Registration No.: 32,881
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant